

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1702.01
COMPLAINT INVESTIGATOR: Jane Taylor-Holmes
DATE OF COMPLAINT: March 2, 2001
DATE OF REPORT: March 27, 2001
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: April 30, 2001

COMPLAINT ISSUES:

Whether the MSD of Washington Township violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's *individualized education program* (the "IEP") as written, specifically, failing to provide advance notice of tests to the student's parent.

511 IAC 7-27-7(b) and 511 IAC 7-17-72 with regard to the school's alleged failure to ensure the student's teacher of record regularly monitored the implementation of the student's *IEP*.

During the course of the investigation two additional issues were identified which are:

Whether the MSD of Washington Township violated:

511 IAC 7-27-6(a)(7)(B) with regard to the school's alleged failure to include in the student's *IEP* a statement of how the student's parents will be regularly informed, at least as often as parents are informed of their nondisabled students' progress, of the student's progress toward the annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the twelve month period.

511 IAC 7-27-7(d) with regard to the school's alleged failure to continue to implement an *IEP* for a period of more than twelve months.

FINDINGS OF FACT:

1. The student (the "Student") is ten years old and in the fourth grade at the local elementary school (the "School"). The Student is eligible for special education and related services as a student with a hearing impairment ("HI").
2. Goal #1 on the Student's December 3, 1999, *IEP* states "Participate effectively in grade level curriculum." The case conference committee (the "CCC") identified two short-term objectives:
[Student] will complete general education assignments at grade level w/80% or better accuracy with the exception of spelling.
[Student] will demonstrate an understanding of grade level concepts in content areas w/80% or better accuracy.
The *IEP* states "teacher will provide unit in advance (1-2 weeks) to parent; this will include vocabulary and approximate test date" as a support for the short-term objectives.

3. The goal sheets from the Student's December 3, 1999, *IEP* include the following pre-printed statement with regard to reviewing the status of progress. "Review each grading period." There is no individualized indication on the *IEP* as to how the Complainant will be regularly informed of the Student's progress.
4. The December 3, 1999, *IEP*, indicates that Goal #1's short-term objectives were reviewed in January 2000, April 2000, June 2000, October 2000, and December 2000.
5. The CCC met on December 13, 2000, for the Student's annual case review. Goal #1 from the December 3, 1999, *IEP* was reviewed and remained the same except that it is now Goal #2 on the Student's December 13, 2000, *IEP*. The short-term objectives were re-written as:
[Student] will complete grade level assignments w/80% accuracy.
[Student] will demonstrate an understanding of grade level concepts in content areas w/80% or better accuracy.
The *IEP* states "advanced notification of tests and projects 7 day advance via written note" as a support for the short-term objectives.
6. The goal sheets from the Student's December 13, 2000, *IEP* include the following pre-printed statement with regard to reviewing the status of progress. "Review each grading period." There is no individualized indication on the *IEP* as to how the Complainant will be regularly informed of the Student's progress.
7. The local director of special education (the "Director") reported that the Student's teacher (the "Teacher") "provides all students with advance notice through monthly class newsletters. When newsletters are distributed to students, the teacher of record receives a copy."
8. The monthly newsletter dated September 26, 2000, states with regard to science "...will have our test on Friday." September 26, 2000, was a Tuesday. No mention of tests in other subjects was included in the September newsletter.
9. The monthly newsletter dated Wednesday, October 11, 2000, states with regard to language. "We have been reviewing for the test which will be this Friday. The newsletter states the following with regard to spelling. "In spelling, we will have a unit test Friday over all the previous lessons." The newsletter states "In social studies we have had our test over chapter 3..." The newsletter states "In science, we have had our test over chapter 2." No mention of tests in other subjects was included in the October newsletter.
10. The monthly newsletter dated Wednesday, November 7, 2000, states the following with regard to reading. "...Monday, we will have our test over the book." No mention of tests in other subjects was included in the November newsletter.
11. The monthly newsletter dated Wednesday, December 6, 2000, has no mention of tests in any subjects. There is an attached schedule of December tests that began with a spelling test on December 6, 2000, and a final spelling test on December 8, 2000. Tests in other subjects were scheduled for December 11, 13, 15, 18, 19, and 20, 2000. The following statement is at the bottom of the schedule sheet: "These dates are subject to change pending on how much material is covered in each subject."
12. In a "correspondence" dated Monday, January 29, 2001, the Teacher informed the Complainant of "tentative test dates up to Interim Progress Report Cards." The first test listed (reading) was scheduled for January 31, 2000. The second test listed (spelling) was scheduled for February 2, 2001. The remaining three tests (science, math, and language) were scheduled for February 6, 9, and 16, 2001, respectively.

13. The monthly newsletter dated Wednesday, February 28, 2001, states "In spelling, we will have our Unit test Friday...If the pre-test is passed on Wednesday, students will not have to take Friday's test." The newsletter states "We have had our language test..." The newsletter also states with regard to Indiana history "...we will have a quiz, Wednesday, March 7..." The newsletter further states "...I am sending home a tentative test schedule..." An attachment with "tentative" test dates indicates that the first test was scheduled for Tuesday, March 6, 2001, in math. Tests in other subjects have "tentative" scheduled dates of March 14, 15, 16, 20, 21, 23, 25, 27, 28, and 30, 2001. The following statement is at the bottom of the schedule sheet. "Test dates are subject to change pending any unscheduled events, but any rescheduled test dates will be noted in the assignment notebook."
14. The complainant (the "Complainant") reported that she has received the monthly newsletters, but most of the time the tests have either already been given or they are scheduled within a few days of having received the newsletter. The Complainant also reported that there is a daily assignment notebook that the Student brings home each afternoon; however, it contains primarily assignments, not written progress or test notifications.
15. The Complainant reported that at the beginning of the 2000-01 school year the teacher of record (the "TOR") made entries in the assignment notebook at least weekly regarding the Student's classroom performance and progress. The TOR's weekly entries have tapered to virtually nothing since late November 2000.
16. The Director reported that the TOR monitors progress of *IEPs* each grading period and that copies of monitored *IEPs* are provided to parents at the time report cards are distributed. The Director also reported that while progress is monitored quarterly, the Student's Teacher and the TOR communicate and monitor progress with regularity before, during, and after school. The Director further reported that e-mail, phone conversations, written notes, and personal contacts during the school day are also ways progress is updated. The Teacher provides copies of all newsletters and information regarding academics to the TOR.
17. The Complainant reported that she has only received approximately two written correspondences from the TOR, and they did not pertain to *IEP* progress. The Complainant contends that most correspondence that occurs does not pertain to *IEP* progress.

CONCLUSIONS:

1. Findings of Fact #2, #5, #7, #8, #9, #10, #11, #12, #13, and #14 indicate that the Complainant has been notified of the Student's tests through the receipt of the monthly newsletters from the Teacher; however, the Complainant has not been provided notice of the tests as specified in the Student's *IEPs*. A violation of 511 IAC 7-27-7(a) occurred.
2. Findings of Fact #2, #3, #4, #5, #6, #7 #8, #9, #10, #11, #12, #13, #14, #15, #16, and #17 indicate that had the TOR been regularly monitoring the implementation of the Student's *IEP* the Complainant would have been receiving advance notice of the Student's test dates as specified in the Student's *IEPs*. A violation of 511 IAC 7-27-7(b) and 511 IAC 7-7-72 occurred.
3. Findings of Fact #3 and #6 indicate that the *IEP* form used by the School includes a pre-printed statement that generically states parents will be informed of student progress at each grading period. The Student's *IEPs* do not state how the parent will be notified, e.g. a copy of goal sheets, written reports, etc. The form does not allow for individualization with respect to the CCC's requirement to determine how parents will be regularly informed of their student's progress toward

the annual goals and then including such in a statement on the *IEP*. A violation of 511 IAC 7-27-6(a)(7)(B) occurred.

4. Findings of Fact #2, #3, #4, #5, and #6 indicate that the Student had an *IEP* that continued to be implemented for more than twelve months. A violation of 511 IAC 7-27-7(d) occurred.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The MSD of Washington Township shall:

1. submit a statement from the Director assuring that the Complainant will receive notice of the Student's tests as specified in the Student's December 13, 2000, *IEP*, and for the duration of said *IEP*. **A copy of the assurance statement shall be submitted to the Division no later than April 27, 2001. Further, for the remainder of the 2000-01 school year the advance notice of the Student's tests shall be submitted to the Division at the same time they are sent to the Complainant.**
2. submit a statement from the Director assuring that the Teacher of Record shall monitor the implementation of the Student's *IEP* on a regular basis. **A copy of the assurance statement signed by the Director shall be submitted to the Division no later than April 27, 2001. Further, the Director shall develop a method of monitoring student *IEPs* to be utilized by the Teacher of Record and shall submit a sample of this monitoring process to the Division no later than April 27, 2001.**
3. revise the *IEP* forms currently in place to allow for the CCC to include a statement of its determination of how parents will be regularly informed of student progress. **A copy of the revised form shall be submitted to the Division no later than April 27, 2001. Further, the CCC shall convene and determine how regularly the Complainant shall be informed of the Student's progress toward annual goals. The Student's *IEP* shall include the newly revised *IEP* form. A copy of the Student's revised *IEP* shall be submitted to the Division no later than May 30, 2001.**
4. submit a statement from the Director assuring that annual case reviews shall be convened and *IEPs* revised to ensure that no *IEP* continues to be implemented that is more than twelve months old. **A copy of the assurance statement signed by the Director shall be submitted to the Division no later than April 27, 2001.**

DATE REPORT COMPLETED: March 27, 2001